

Order

Michigan Supreme Court
Lansing, Michigan

November 21, 2018

Stephen J. Markman,
Chief Justice

156782

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 156782
COA: 332491
Wayne CC: 01-003031-FC

JUAN T. WALKER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the October 12, 2017 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE that part of the judgment of the Court of Appeals holding that the trial court clearly erred in finding a reasonable probability that the defendant would have accepted the plea offer, and we REMAND this case to that court for consideration of whether *Lafler v Cooper*, 566 US 156 (2012), should be applied retroactively to this case, in which the defendant's convictions became final in 2005.

The Court of Appeals found clear error in the trial court's memorandum opinion and in its statements during oral argument at a subsequent hearing. However, in its review of the record, the Court of Appeals failed to recognize that, at the end of that hearing, the trial court quoted the applicable standard from *Lafler* and unequivocally found that there was a reasonable probability that the defendant would have accepted the plea offer. This finding – made by the trial judge who presided over the trial and the evidentiary hearing – is supported by the record, and we are not “left with a definite and firm conviction that the trial court made a mistake.” *People v Armstrong*, 490 Mich 281, 289 (2011).



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 21, 2018

Clerk